

**CRIMINAL DOCKET
UNITED STATES DISTRICT COURT**

68-CR-24

D. C. Form No. 100A Rev.

TITLE OF CASE	ATTORNEYS
THE UNITED STATES vs. David Emmett Mitchell and Letha Faye Hohenberger	For U. S.: Lawrence A. McSoud For Defendant: Mitchell Irvine Ungerman (Ct. Apptd.) Robert Brown (Ct. Apptd.) 500 West 7th Tulsa, Oklahoma 74119 Ollie W. Gresham (Ct. Apptd.) Mayo Building Tulsa, Oklahoma 74103

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 2 mailed <i>6-30-68 (Mitchell)</i> <i>1-31-68</i>	Clerk				
J.S. 3 mailed <i>1-29-68 (2)</i>	Marshal				
Violation Kidnapping	Docket fee				
Title 18					
Sec. 1201					

DATE	PROCEEDINGS
1-12-68	Indictment filed in open court. w
1-12-68	Record vote of the Grand Jury filed in open court. w
1-16-68	Defendants, David Emmett Mitchell and Letha Faye Hohenberger, each present in person and each represented, arraignment passed until Tuesday, January 23, 1968 at 10:00 A. M. (Allen E. Barrow-Judge) (M-CSE)
1-19-68	Defendants' Motion for Discovery and Inspection, filed. w
1-19-68	Defendants' Motion for Disclosure of Matters Occurring before the Grand Jury, filed. w
1-22-68	Case set for hearing on filing and delivery of copies of jurors, witnesses etc., on Tuesday 1-30-68 at 10:00 A.M. (AEB-J)h
1-23-68	Defendants each present in person and each represented. Defendants' motion for discovery and inspection sustained; government directed to supply defendant Jury list, etc., in open court on 1-30-68 at 10:00 A.M. Defendants' motion for disclosure of matters occurring before Grand Jury sustained. Defendant granted permission to file application for private investigator. Defendant Mitchell arraigned and enters plea of NOT GUILTY. Defendant Hohenberger arraigned and enters plea of NOT GUILTY, and case set for Jury Trial on 2-5-68 at 10:00 A.M. (Allen E. Barrow-Judge)h

DATE	PROCEEDINGS
1-25-68	<p>Defendants each present in person and represented. Defendants each waive jury in open court. Waivers of jury signed and filed. Defendants execute petitions to enter pleas of guilty in open court. Defendant David Emmett Mitchell withdraws plea of not guilty and enters plea of GUILTY; and is adjudged GUILTY. Defendant Letha Faye Hohenberger withdraws plea of not guilty and enters plea of GUILTY; and is adjudged GUILTY. Sentence as to each defendant is passed to Thursday, 2-15-68 at 10:00 A.M. (AEB-J)h</p>
2-14-68	<p>Defendants David Emmett Mitchell and Letha Faye Hohenberger each present in person and each represented by counse. Defendant David Emmett Mitchell represented by Rogert G. Brown, ct. appt. counsel and defendant Hohenberger represented by Ollie Gresham, ct. appt. counsel.</p>
	<p>Judgment and Sentence- David Emmett Mitchell (26)</p>
	<p>Atty Gen- for Life.</p>
	<p>The court recommends that the defendant first be committed to the US Med. Center, Springfield, Mo. for evaluation and and study; report to be made at the expiration of 90 days.</p>
	<p>Judgment and sentence- Letha Faye Hohenberger (29)</p>
	<p>Atty Gen- 50 years. (Allen E. Barrow-Judge)h</p>
2-14-68	<p>Order of J&C filed and entered. (AEB-J)h</p>
2-14-68	<p>Two c.c. of J&C delivered to USM.h</p>
2-23-68	<p>Filed letter from defendant, David Emmett Mitchell, stating that he is satisfied with results of his case and that he does not wish to file a motion for new trial or perfect any appeal. w</p>
2-26-68	<p>Notice of appeal filed by defendant Letha Faye Hohenberger. Cpy. to McSoud. g Statement of docket entries sent to USCA, Denver. g</p>
2-27-68	<p>Petition and Affidavit for leave to proceed in forma Pauperis pursuant to 28 USCA 1915 as to defendant Letha Faye Hohenberger filed. h</p>
2-27-68	<p>Return on service of Commitment as to defendant David Emmet Mitchell, filed.h Executed by delivering defendant to U.S. Medical Center at Springfield, Mo. h</p>
2-29-68	<p>Order appointing Irvine E. Ungerman as attorney for David Emmett Mitchell and relieving Robert G. Brown from further responsibility filed. e</p>
2-29-68	<p>Order granting defendant Letha Faye Hohenberger leave to prosecute appeal in forma pauperis, filed. (Allen E. Barrow, Judge)g cpy to counsel & Rptr.</p>
3-1-68	<p>Order filed in regard to report from the United States Medical Center, Springfield, Missouri, relate itself specifically to whether or not David Emmett Mitchell was competent to enter a voluntary plea on January 25, 1968, etc. (Allen E. Barrow - Judge)</p>
3-4-68	<p>Defendant/ application for psychiatric examination of defendant David Emmett Mitchell, filed. w</p>
3-11-68	<p>Return on service of J&C as to defendant Hohenberger. Executed by delivering defendant to Federal Reformatory for Women at Alderson, W.Va on 3-4-68.h</p>
3-27-68	<p>Motion to vacate under 4244 T. 18 USC filed by defendant Mitchell. h</p>
4-4-68	<p>Transcript of Arraignment on Jan. 16, 1968, filed. g (1+2 copies)</p>
4-4-68	<p>Transcript of Arraignment and Plea on Jan. 23, 1968, filed. g (1+2 cpies)</p>
4-4-68	<p>Transcript of Arraignment and Change of Plea on Jan. 25, 1968, filed. (1+2)g</p>
4-4-68	<p>Transcript of Sentencing on Feb. 14, 1968, filed. (1+2)g</p>
4-5-68	<p>Order discharging Ollie W. Gresham as counsel for Letha Faye Hohenberger. (AEB-J)</p>
4-5-68	<p>Transcript of documents in lieu of record on appeal sent to USCA, Denver. g</p>
4-10-68	<p>Record on appeal forwarded to USCA, Denver. g</p>

D. C. 109A
CRIMINAL DOCKET

DATE	PROCEEDINGS
6-3-68	Case set on hearing on government's motion to withdraw plea of guilty and set aside conviction, on Tuesday, June 11, 1968 at 10:00 A M (AEB-J)h as to defendant Mitchell.
6-4-68	Petition for writ of habeas corpus ad testificandum, filed. ds
6-4-68	Order granting writ of habeas corpus ad testificandum, filed. (AEB-J) Writ issued. ds
6-5-68	Motion of defendant, David Emmett Mitchell, to vacate and set aside conviction of defendant and to withdraw plea of guilty, filed. b
6-11-68	Defendant David Emmett Mitchell present in person and represented. Hearing held on motion of defendant to set aside conviction and withdraw plea of guilty; motion joined by government; motion sustained, and court sets aside plea of guilty heretofore entered on 1-25-68 and sets aside conviction. Defendant moves for dismissal of charges and it is overruled. Court orders that motion under 2255 in 68-C-58 is dismissed, inasmuch as it is moot, and all other motions in that case inasmuch as they are moot. Plaintiff requests that defendant Mitchell be committed under 4248 T. 18.
Judgment and Sentence- David Emmett Mitchell	
Attorney General- pursuant to T. 18 USC 4248.	
Court directs U.S. Attorney to prepare proper order. Defendant's request that transcript of hearing of this date be admitted into Evidence as a permanent record is granted by the court. (AEB-J)h	
6-17-68	Return of Writ of Habeas Corpus Ad Testificandum, filed. js
6-17-68	Order and commitment filed and entered. It is ordered and determined that defendant David Emmett Mitchell to have been mentally incompetent at the time of trial and judgment of conviction/entered 2-14-68 be vacated and set aside and plea of guilty entered 2-25-68 is withdrawn, AND FURTHER ADJUDGED that the defendant be committed to the custody of the Attorney General or his authorized representative until he shall be mentally competent to stand trial, or until his mental condition is so improved that if he be released he will not endanger the safety of officers, etc, of the US, or until suitable arrangements have been made for the custody and care of the defendant be the state of his residence, whichever event shall first occur. (copy of same mailed to US Med. Center, Springfield, Mo.)(Allen E. Barrow-Judge)h
6-21-68	Mandate of U.S.C. of A. filed and spread of record: Appeal of Letha Faye Hohenberger dismissed. e
6-22-71	Case called for Hearing On Government's Motion to Dismiss. ^(Deft Mitchell) Parties represented. Statements made. Letter from Texas Dept. of Mental Health & Retardation entered as an Exhibit #1 by Govt. <u>Motion to Dismiss of Govt. filed.</u> <u>Order on Government's Motion to Dismiss sustaining Indictment and indictment is ordered dismissed.</u> U. S. Marshal is ordered to transport deft from Springfield, Missouri, to Rusk State Hospital, at Rusk, Texas Filed. (AEB-J)r
7-1-71	Order on government's motion to dismiss the indictment. The U.S. Marshal is ordered to transport defendant from Springfield, Mo., to Rusk State Hospital, at Rusk, Texas; which he did 6-27-71, filed. v
5-9-72	Order, filed, that deft's request (Letha Faye Hohenberger) for a transcript at govt. expenses is overruled and dismissed. (AEB-J)hm (copies mailed)

12-26-78
copy of appeal record
recd. from USCA. mm

DATE	PROCEEDINGS

RECORD OF PROCEEDINGS IN CRIMINAL CASES

Miami, Oklahoma
(Address)

Complaint filed on 1-4-68, 1968, by Sean M McWeeney,
Official title Special Agent, FBI, charging violation of
United States Code; Title 18, Section 1201, on 1-1-68
1968, at Miami, Oklahoma in the Miami
division of the Northern district of Oklahoma
as follows: unlawfully seize, kidnap and abduct Geor
Drayton Hooper at Dallas, Texas, and transport Ge
e Drayton Hooper in interstate commerce from Dalla
mas, to Miami, Oklahoma, in a 1967 Pontiac GTO VIN
2177K125721 bearing 1967 Texas License No. CGP 663
d at a place unknown but somewhere in interstate
commerce between Dallas, Texas, and Miami, Oklahoma,
d murder George Drayton Hooper".

Date 1-4-68 Warrant/Summons for David Emmett Mitchell and Letha Faye Hohen-
gerber aka Letha Faye Vandiver (Name of defendant)

Substance of return Recd 1-4-68 at Miami, Okla and executed by arrest of David Emmett Mitchell and Letha Faye Hohenberger aka Letha Faye Vandiver.

Date..... Warrant/Summons for..... (Name of defendant)

to (name and title of officer) _____ (Name of defendant)
Substance of return _____

FILED

PROCEEDINGS ON FIRST PRESENTATION OF ACCUSED TO COMMISSIONER:

Date 1-4-68 Arrested by John E. Chenoweth, Jr. on warrant of Charles F. Burns
Special Agent FBI U.S. Court (Name of issuing officer)
U.S. District Court U.S. District Court

Appearances	{	for United States..... None			
			(Name)		(Address)
		for accused..... None			
			(Name)		(Address)

Proceedings taken. Complaint filed and warrants issued for both defts, 1-4-68. Both

(Here insert with dates, when appropriate, a serialim account of essential steps taken at hearing such as "complaint prepared,"

~~defts present in open court without counsel. Defts advised of their rights and right~~

if arrest is without warrant: "defendant informed of complaint and right to retain counsel and preliminary hearing": "preliminary examination waived,"
~~to be represented by counsel. Both defts waived right to be represented by counsel~~
 if that is the fact; any adjournments taken, etc.

and to a preliminary hearing. Defts advised of charge against them and advised that the offense charged against them was not bailable. Both defts were remanded to the

custody of the U S Marshal for delivery at Tulsa, Oklahoma, for further proceedings before U. S. District Judge.

Outcome.....**Bound over to U S District Court at Tulsa, Oklahoma.**

Bail fixed ~~Not bailable~~, 19..... Amount, \$..... Bonded....., 19....., by cash
deposited by (name)..... Address.....

transmitted to clerk of district court _____, 19____ [or] by surety
(name) _____ Address _____

(name) _____ Address _____, who
justified by affidavit dated _____, 19 _____ [or] committed to

on _____, 19____

SUBPOENAS FOR WITNESSES ISSUED:

_____, 19____, for (name of witness)_____
at request of (name of party)_____
Substance of return_____

_____, 19____, for (name of witness)_____
at request of (name of party)_____
Substance of return_____

_____, 19____, for (name of witness)_____
at request of (name of party)_____
Substance of return_____

PRELIMINARY EXAMINATION:

(Not to be used if case was disposed of at first presentation)

Date_____ Appearances for _____

{ United States (Name) _____
(Address) _____
Accused (Name) _____
(Address) _____

WITNESSES FOR UNITED STATES: (List names and addresses)

WITNESSES FOR ACCUSED: (List names and addresses)

Witness payroll containing _____ names certified to United States Marshal for payment _____, 19____
Proceedings taken_____

Outcome_____

Bail fixed _____, 19____ Amount, \$ _____ Bonded _____, 19____, by cash
deposited by (name) _____ Address _____
transmitted to clerk of district court _____, 19____
[or] by surety (names) _____ Address _____
and _____ Address _____
who justified by affidavit _____, 19____ Committed to _____
on _____, 19____

Certified to be a correct transcript.

Made this 5 day of January, 19 68

Transmitted to Clerk of United States District Court for the Northern
district of Oklahoma, January 5, 19 68

Charles F. Burns

United States Commissioner.